

ADVISORY OPINION 97-007

Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is required. KRS 121. 135(4).

August 11, 1997

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William B. Monnig, M.D.
KEMPAC Chairman
Kentucky Educational Medical Political Action Committee
4965 US Highway 42, Suite 2000
Louisville, Kentucky 40222

Dear Dr. Monnig:

This is in response to your July 7, 1997 request for an advisory opinion regarding **whether reasonable and necessary expenses allocable to seminars and workshops on ballot-related matters to be planned and hosted by the Kentucky Educational Medical Political Action Committee ("KEMPAC") for its members may be paid from its "campaign support account."**

KRS 121.175(1) prohibits a committee from permitting "funds in a campaign account to be expended for any purpose other than for allowable campaign expenditures." KRS 121.175(1) defines an "allowable campaign expenditure" as one that is "made directly and primarily in support of or opposition to a candidate, constitutional amendment, or public question which will appear on the ballot." In addition to this general definition, KRS 121.175(1) and 32 KAR 2:200 list specific examples of allowable campaign expenditures, including "expenditures for . . . communications with constituents or prospective voters, polling and consulting." However, expenditures that "would bestow a private pecuniary benefit," KRS 121.175(1), are prohibited. Examples of such unlawful expenditures are provided in the regulations promulgated by the Registry. See 32 KAR 2:200 Sec. 2.

Your letter indicates that the workshops KEMPAC proposes to sponsor will "focus on ballot issues," and will include training from "consultants with expertise on relevant issues." Therefore, provided that these expenditures are "made directly and primarily in support of or opposition to a candidate, constitutional amendment, or public question which will appear on the ballot," they may be properly paid from KEMPAC's campaign support account as allowable campaign expenditures pursuant to KRS 121.175(1).

You also mention in your letter that KEMPAC's "campaign support account" is the repository for membership dues. We presume that you are referring to contributions to KEMPAC by its members. (See AO 92-005)

Regarding the additional questions to which you referred in your letter, please note the following restatements of the questions posed and the Registry's opinion:

Does the definition of "person" for purposes of KRS 121.150(11) include a political action committee, and if so, does the same contribution limit apply?

As you correctly noted in your letter, the Registry addressed this issue in Advisory Opinion 93-001, dated January 25, 1993, which is attached and incorporated by reference. The definition of "person" provided in KRS 446.010(26) extends to "bodies politic and corporate." Since KRS Chapter 121 does not define "person," the Registry applies the definition of "person" provided in KRS 446.010(26) to all sections of KRS Chapters 121 and 121A. Further, as stated in Advisory Opinion 93-001, the definition of "committee" provided in KRS 121.015(3) "is in harmony with this analysis." Accordingly, KRS 121.150(11), which prohibits a "person" from contributing more than \$2,500 to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year, applies to permanent committees. Therefore, in Kentucky, a permanent committee may only contribute \$2,500 in the aggregate per annum to a state executive committee and its subdivisions and affiliates.

Does the limit of \$1,500 on aggregate contributions to a permanent committee pursuant to KRS 121.150(10) apply to contributions from a permanent committee such as KEMPAC to another committee?

Again, the discussion provided in Advisory Opinion 93-001, as explained above, controls the application of KRS 121.150(11) to permanent committees. Therefore, a permanent committee shall not contribute more than \$1,500 in the aggregate per annum to any other permanent committee and contributing organizations.

What is the appropriate statutory rule regarding a permanent committee's ability to join or contribute to civic and charitable organizations?

KRS 121.150(2) "expressly prohibits

However, note that 32 KAR 2:200 Sec. 1, which provides a list of campaign expenditures that "shall be considered allowable" includes "(1) Expenditures made or items donated to charitable and civic organizations ... provided that the expenditure furthers a candidacy through advertising."

Can a permanent committee pay reasonable and necessary legal fees from its candidate support account?

Again, KRS 121.175 and 32 KAR 2:200 § 1 provide the definition of and examples of "allowable campaign expenditures." Expenditures that are "made directly and primarily in support of or opposition to a candidate, constitutional amendment, or public question which will appear on the ballot" are allowable. Therefore, expenditures for legal services that are directly related to the campaign in support of or opposition to a candidate, amendment or public question are allowable under KRS 121.175 and may be lawfully made from a permanent committee's candidate support account.

What is the practical effect of the 1996 amendment to KRS 121.170(6) regarding allowable permanent committee expenses?

The effect of subsection (6) is that compliance with Federal law by a Federal political action committee with respect to corporate contributions will be considered compliance with Kentucky law when a federal political action committee contributes to Kentucky candidates.

Thank you for contacting the Registry. If you have further questions, please do not hesitate to contact us.

Sincerely,

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Rosemary F. Center
General Counsel

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